

### **REMARKS**

Applicants respectfully request reconsideration of the present application. Claims 1, 9, 13-19, and 30-31 have been amended herein. Care has been exercised to introduce no new matter. Claims 1-24 and 30-31 are pending and are believed to be in condition for allowance.

#### **Rejections based on 35 U.S.C. § 102**

Claims 1-2 and 12 were rejected under 35 U.S.C. 102(b) as ostensibly being anticipated by Microsoft XP operating system (XP). Applicants respectfully traverse said rejection for the following reasons.

Independent claim 1 has been amended to recite, in part,

an operating system (OS) section **consisting of all commonly accessed OS specific menu items of the computer generated GUI**; and an application program (AP) section **consisting of all commonly accessed AP specific menu items of the computer generated GUI** and a single AP menu item expanding access only to **other AP specific menu items.** (emphasis added)

Support for said amendments can be found, at least in part, in Applicants' original specification at ¶¶ [47-49]. The Office contends that said recited features are displayed by the Windows XP reproduction on p. 1, where the grouped features of, "Control Panel, Set Program Access and Def., and Printers and Faxes" on the right side of the reproduction are asserted to anticipate Applicants' recited OS section. The expansion of the "Control Panel" feature is asserted to anticipate Applicants' recited OS expanding access menu item, and the "Set Program ..." and "Printers ..." features are asserted to anticipate Applicants' recited commonly accessed OS specific menu items. The left side portion of the reproduction on p. 1 is asserted to anticipate Applicants' recited AP section, where the "All Programs" button allegedly anticipates Applicants' recited expanding access menu item, and the remaining displayed left-side items

allegedly anticipate Applicants' recited commonly accessed AP specific menu items. However, there are several short-comings in the Windows XP (XP) cited reference.

Regarding the OS section, the XP menu items of "Set Program Access and Def ..." and "Printers and Faxes" are not commonly accessed OS menu items *of the computer generated GUI*, but instead are default features provided by the operating system. Stated another way, these two menu items would be present on all GUIs for a particular XP Windows operating system, and would not vary between GUIs. Stated yet another way, commonly accessed OS menu items will be different from one computing device to another, depending upon user preferences and frequency of OS menu item access. In addition, the expansion of the Control Panel is not an expansion only to other OS menu items. The Control Panel, according to its own description, "provides options for you to customize the appearance and functionality of your computer, add or remove programs, and set up network connections and user accounts." This is far from a complete list of all OS menu items, aside from the commonly accessed OS menu items.

Regarding the AP section, the "All Programs" menu item possibly expands to the available remaining AP specific menu items, but it also includes some or all of the OS specific menu items. This is contrary to Applicants' recited feature for a single AP menu item expanding access only to other AP specific menu items. In addition, the AP section **consists** of commonly accessed AP menu items and a single AP menu item that expands access to all other AP menu items, whereby inclusion of any other menu items, including any OS menu items is prohibited.

Therefore, XP does not anticipate all recited features of amended independent claim 1, thereby making amended independent claim 1 and dependent claims 2 and 12 allowable

over the cited reference. Applicants respectfully request withdrawal of said rejection and allowance of claims 1-2 and 12.

**Rejections based on 35 U.S.C. § 103**

**Applicable Authority**

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason—suggestions or motivations—found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. See *Application of Bergel*, 292 F.2d 955, 956-957 (CCPA 1961).

Claims 3-8 and 10-11 were rejected under 35 U.S.C. 103(a) as ostensibly being unpatentable over XP in view of YZ dock. Applicants respectfully traverse said rejection for the following reasons.

Claims 3-8 and 10-11 depend from amended independent claim 1. As discussed above, amended independent claim 1 has been shown to be allowable over the cited reference of XP. YZ dock is directed to special menu item features, such as animation, and does not

compensate for the deficiencies of XP in describing or suggesting all recited features of amended independent claim 1. Therefore, claims 3-8 and 10-11 are also allowable over the cited references of record, at least for the reasons regarding independent claim 1 discussed above. Applicants respectfully request withdrawal of said rejection and allowance of claims 3-8 and 10-11.

Claim 9 was rejected under 35 U.S.C. 103(a) as ostensibly being unpatentable over XP, and further in view of YZ dock and Rosendahl, et al. (Rosendahl, U.S. Patent No. 5,452,414). Applicants respectfully traverse said rejection for the following reasons.

Claim 9 depends from amended independent claim 1. As discussed above, amended independent claim 1 has been shown to be allowable over the cited reference of XP. YZ dock is directed to special menu item features, such as animation, and Rosendahl is directed to a three-dimensional rotating icon (*see Rosendahl*, Abstract). Neither YZ dock nor Rosendahl compensate for the deficiencies of XP in describing or suggesting all recited features of amended independent claim 1. In addition, Rosendahl does not describe an icon that rotates with movement of the pointer, as recited by Applicants' claim 9. Rosendahl describes *moving* an icon with the pointer, or causing an icon to rotate by *clicking an icon button marker* on the icon itself (*Id.* col. 4 lines 13-15). However, Rosendahl does not describe rotating the icon with movement of the pointer. Therefore, claim 9 is also allowable over the cited references of record, on its own merit. Applicants respectfully request withdrawal of said rejection and allowance of claim 9.

Claims 13-16, 19-22 and 24 were rejected under 35 U.S.C. 103(a) as ostensibly being unpatentable over XP in view of Gardner, et al. (Gardner, U.S. Patent No. 7,003,734). Applicants respectfully traverse said rejection for the following reasons.

Independent claim 13 has been amended to recite, in part, “receiving a first user input that causes a pointer to be located over an operating system (OS) section, the OS section consisting of all commonly accessed OS specific menu items of the GUI and a single OS menu item expanding exclusive access to all other OS specific menu items.” Independent claim 13 has also been amended to recite, in part, “receiving a second user input that causes the pointer to be located over an application program (AP) section, the AP section consisting of all commonly accessed AP specific menu items of the GUI and a single AP menu item expanding exclusive access to all other AP specific menu items.” The discussion previously presented regarding the OS section and the AP section of amended independent claim 1 is incorporated herein in support of amended independent claim 13. In addition, amended independent claim 13 recites, in part, “displaying in a first distinct area of the GUI an icon associated with that OS specific menu item located by the first user input, wherein *movement of the icon* associated with that OS specific menu item is generated in real time *in response to movement of the pointer*.” Amended independent claim 13 also recites, in part, “displaying in a second distinct area of the GUI an icon associated with that AP specific menu item located by the second user input, wherein *movement of the icon* associated with that AP specific menu item is generated in real time *in response to movement of the pointer*.” Support for said amendments can be found, at least in part, in Applicants’ original specification at ¶ [43]. The Office stated that Gardner describes, “the iconic imagery is activated as long as the pointer is within the area of the designated hotspot” (*see OA*, p.9). However, Gardner does not describe or suggest that the icon moves in response to movement of the pointer, as recited by Applicants’ amended independent claim 13. Therefore, amended independent claim 13, as well as dependent claims 14-16 are allowable over the cited references of record.

Independent claim 19 has been amended to recite, in part,

an operating system (OS) section **consisting of all commonly accessed OS specific menu items of the GUI** and a single OS menu item expanding access only to other OS specific menu items; and an application program (AP) section **consisting of all commonly accessed AP specific menu items of the GUI** and a single AP menu item expanding access only to other AP specific menu items. (emphasis added)

The discussion previously presented regarding the OS section and the AP section of amended independent claim 1 is incorporated herein in support of amended independent claim 19. Gardner is directed to creating and displaying images, including pop-up images over a large computer network (*see Gardner*, col. 1 lines 18-20), but does not compensate for the deficiencies of XP in describing or suggesting all recited features of amended independent claim 19. Therefore, amended independent claim 19, as well as dependent claims 20-22 and 24 are also allowable over the cited references of record.

Applicants respectfully request withdrawal of said rejection and allowance of claims 13-16, 19-22 and 24.

Claims 17 and 23 were rejected under 35 U.S.C. 103(a) as ostensibly being unpatentable over XP and Gardner, and further in view of Viellescaze, et al. (Viellescaze, U.S. Publication No. 2004/0179043 A1). Applicants respectfully traverse said rejection for the following reasons.

Claim 17 depends from amended independent claim 13, and claim 23 depends from amended independent claim 19. Amended independent claims 13 and 19 were previously shown to be allowable over the cited references of XP and Gardner. Viellescaze is directed to animating a figure (*see Viellescaze*, Abstract) and does not compensate for the deficiencies of XP and Gardner in describing or suggesting all recited features of amended independent claim 13 or

amended independent claim 19. Therefore, dependent claims 17 and 23 are also allowable over the cited references of record, at least for the same reasons. Applicants respectfully request withdrawal of said rejection and allowance of claims 17 and 23.

Claims 30-31 were rejected under 35 U.S.C. 103(a) as ostensibly being unpatentable over XP and Gardner, and further in view of Rosendahl and Edelsbrunner (U.S. Publication No. 5,850,229). Applicants respectfully traverse said rejection for the following reasons.

Independent claim 30 has been amended to recite, in part,

a start menu divided into a compact listing of **discrete sections**, a first discrete section **consisting of all commonly accessed** operating system (OS) specific menu items **of the GUI** and a single OS menu item expanding access only **to other** OS specific menu items ... a second section **consisting of all commonly accessed** application program (AP) specific menu items **of the GUI** and a single AP menu item expanding access only **to other** AP specific menu items. (emphasis added)

The discussion previously presented regarding the OS section and the AP section of amended independent claim 1 is incorporated herein in support of amended independent claim 30. Amended independent claim 30 also recites, “an animated three-dimensional appearing icon that moves *side-to-side* so that a user can see the edges rotating.” The Office asserts that Rosendahl describes said recited feature (*see OA*, p.16). Rosendahl describes moving an icon to another position by dragging the icon with a cursor, or clicking upon one or more icon button markers located on the icon to rotate the icon in a particular direction (*see Rosendahl*, col. 4 lines 1-23), but there is no disclosure of moving an icon side-to-side as recited by Applicants’ amended independent claim 30. XP, Gardner, and Edelsbrunner, either alone or in any combination, do not compensate for the deficiencies of Rosendahl in describing or suggesting all recited features of amended independent claim 30, thereby placing amended independent claim 30 in allowable

condition. Dependent claim 31 is also directed to side-to-side movement of the icon and is therefore allowable on its own merit. Therefore, Applicants respectfully request withdrawal of said rejection and allowance of claims 30-31.



### CONCLUSION

For at least the reasons stated above, claims 1-24 and 30-31 are now believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 202-783-8400 or [nberezny@shb.com](mailto:nberezny@shb.com) (such communication via email is herein expressly granted) – to resolve the same.

It is believed that no fee is due. However, if that belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112 with reference to Attorney Docket Number 306210.01/MFCP.139203.

Respectfully submitted,

/NEMA BEREZNY/

NEMA BEREZNY  
Reg. No. 57,706

JSG/NOB/jc  
SHOOK, HARDY & BACON L.L.P.  
2555 Grand Blvd.  
Kansas City, MO 64108-2613  
816-474-6550